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Bulgaria, Djibouti, Hungary, Ireland, Portugal, Slovenia, Turkey and United States of America: draft resolution

Situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The General Assembly,

Recalling all relevant resolutions on this subject, in particular Commission on Human Rights resolution 1999/18 of 23 April 1999,[1] as well as all Security Council resolutions and statements,

Bearing in mind General Assembly resolution 54/ ____ of _____ on the situation of human rights in Kosovo,

Reaffirming the obligations of all Member States under the Charter of the United Nations and the Universal Declaration of Human Rights,[2] the obligations of States parties under the International Covenants on Human Rights[3] and all other human rights instruments and the obligation of all to respect international humanitarian law, including the Geneva Conventions of 12 August 1949 on the protection of victims of war[4] and the Additional Protocols thereto, of 1977,[5] as well as the principles and commitments undertaken by participating States of the Organization for Security and Cooperation in Europe,

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[1] See *Official Records of the Economic and Social Council, 1999, Supplement No. 3* (E/1999/23), chap. II, sect. A.

[2] Resolution 217 A (III).

[3] Resolution 2200 A (XXI), annex.

[4] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

[5] Ibid., vol. 1125, Nos. 17512 and 17513.

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Expressing its full support for the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (collectively the "Peace Agreement"),[6] which, *inter alia*, committed the parties of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to respect fully human rights, and for the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium (the "Basic Agreement"),[7]

Expressing its deep concern at the continuing evidence of violations of human rights and fundamental freedoms taking place to varying degrees in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) and, in particular, the failure of the Federal Republic of Yugoslavia (Serbia and Montenegro) to follow the 1996 recommendations of the personal representative of the Chairman-in-Office of the Organization for Security and Cooperation in Europe,

Welcoming all contributions of the Office of the High Representative, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and other parts of the United Nations, the Organization for Security and Cooperation in Europe, the Council of Europe, the European Community Monitoring Mission, Governments and intergovernmental and non-governmental organizations in the area in 1999,

1. *Reiterates its call* for the full and consistent implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (collectively the "Peace Agreement")[6] and the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium (the "Basic Agreement")[7] by all parties to those agreements;

2. *Stresses* the crucial role of human rights in the successful implementation of the Peace Agreement, and underlines the obligations of the parties under the Peace Agreement to secure for all persons within their jurisdiction the highest level of international norms and standards of human rights and fundamental freedoms;

3. *Stresses also* the need to direct international human rights efforts in the region to the core issues of the lack of full respect for the human rights and fundamental freedoms of all individuals without distinction, the rule of law and effective administration of justice at all levels of government, the freedom and independence of the media, freedom of expression, freedom of association, including with respect to political parties, freedom of religion and freedom of movement;

4. *Stresses further* the need for enhanced international human rights efforts to foster and effect the prompt and voluntary return of displaced persons and refugees in safety and with dignity;

5. *Reiterates its call upon* all parties and States in the region to ensure that the promotion and protection of human rights and effective, functioning democratic institutions will be central elements in developing civilian structures, as reaffirmed at the meetings of the Steering Board of the Peace Implementation Council and the Peace Implementation Conference;

6. *Urges* all States and parties to the Peace Agreement that have not done so to meet their obligations to cooperate fully with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed

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[6] See *Official Records of the Security Council, Fiftieth Year, Supplement for October, November and December 1995*, document S/1995/999.

[7] Ibid., document S/1995/951.

in the Territory of the Former Yugoslavia since 1991, as required by Security Council resolution 827 (1993) of 25 May 1993 and all subsequent relevant resolutions, and in particular to comply with their obligations to arrest and transfer to the custody of the Tribunal those indicated persons present in their territories or territories under their control;

7. *Continues to call upon* all parties to the Peace Agreement to take immediate steps to determine the identity, whereabouts and fate of missing persons in their territories, including through close cooperation with the United Nations as well as with humanitarian organizations and independent experts, and stresses the importance of coordination in this area;

8. *Notes* that varying degrees of progress have been made in the human rights situation in several areas, but that substantial efforts remain to be made;

I. Bosnia and Herzegovina

9. *Notes* the progress made in Bosnia and Herzegovina with regard to the increase of political pluralism and freedom of expression, through the participation of all groups and individuals, which represents another step towards democracy in Bosnia and Herzegovina, but remains concerned that freedom of speech and the media are still curtailed by political influence, notably through the selective and intimidating application of slander laws;

10. *Expresses its continued serious concern* about continuing human rights violations within Bosnia and Herzegovina and delays in the full implementation of the human rights provisions of the Peace Agreement, notably the delay in bringing legislation into compliance with the human rights provisions of the country's national Constitution, and the failure of local authorities and groups to comply with the obligations of the Peace Agreement;

11. *Condemns in the strongest terms* the complicity by local governments in the perpetration of violence against minority refugees and internally displaced persons returning to their homes and in the destruction of their homes, including acts of intimidation and all those acts designed to discourage the voluntary return of refugees and internally displaced persons, and calls for the removal from office of implicated local government officials as well as the immediate arrest and bringing to justice of those responsible for such acts;

12. *Calls upon* all the authorities of Bosnia and Herzegovina to adjudicate claims for, and implement decisions on, property rights made by local authorities and/or by the Commission on Real Property Claims of Displaced Persons without further delay;

13. *Reiterates its demand* that all parties in Bosnia and Herzegovina immediately create conditions conducive to the voluntary return, in safety and with dignity, of refugees and internally displaced persons to their homes, with equal emphasis on persons belonging to minorities to pass immediately and enforce legislation on property rights in conformity with recommendations made by the Office of the High Representative, and to end practices of discrimination on ethnic or political grounds;

14. *Notes with satisfaction* the decline of violence against returning refugees and displaced persons, while remaining concerned that all ethnic groups continue to report harassment;

15. *Welcomes* the adoption of a new criminal code and of codes of ethics by the judges and prosecutors of both entities, and the increased strength of the prosecutor's office of the Federation of Bosnia and Herzegovina as a result of laws imposed by the High Representative, but notes that the judicial processes still do not sufficiently protect the rights of the accused;

16. *Notes* that the decisions of the Human Rights Chamber are starting to be implemented, while reminding both State and entity-level governments to pay increased attention to decisions of the Chamber;

17. *Calls upon* the authorities of Bosnia and Herzegovina and, in particular, the authorities of the Republika Srpska to increase their cooperation with the Commission on Human Rights for Bosnia and Herzegovina (the "Commission"), to cooperate fully with the International Tribunal for the Former Yugoslavia and to intensify their efforts in this regard;

18. *Notes* that police standards and protection have improved, while remaining concerned about continuing indications among the police of unprofessional conduct, political influence and instances of interference with refugee returns and the use of excessive force;

19. *Urges* the authorities of Bosnia and Herzegovina, in particular those of the Republika Srpska, to ensure full and free access to their territories to all institutions and organizations concerned with the implementation of the present resolution, including non-governmental organizations, and to provide for the protection of those organizations, especially those providing humanitarian assistance;

20. *Stresses* the importance of the implementation of the programme proposed by the High Representative in coordination with the United Nations Mission in Bosnia and Herzegovina, the Council of Europe and the Organization for Security and Cooperation in Europe for a comprehensive judicial reform;

21. *Calls upon* the authorities of both entities to cooperate closely with the Office of the United Nations High Commissioner for Refugees in matters relating to the return of refugees and to ensure that local authorities and groups permit and encourage the return of displaced persons to their homes of origin;

22. *Calls upon* the authorities of Bosnia and Herzegovina urgently to consider, with a view to its early adoption and full implementation, the draft permanent election law designed by the Organization for Security and Cooperation in Europe to strengthen ties between constituents and representatives, strengthen democratic accountability and encourage pluralistic, multi-ethnic political parties;

23. *Notes* the importance of the work of the human rights ombudsman in bringing to light many cases of human rights violations and in resolving several of them, and urges the authorities of Bosnia and Herzegovina to implement the recommendations;

24. *Condemns* recurrent instances of religious discrimination and violence and the denial to religious minorities of their rights to reclaim and rebuild their religious sites;

25. *Expresses its concern* that trafficking in women is a growing problem, and calls upon the authorities of Bosnia and Herzegovina to act vigorously to combat this;

II. Republic of Croatia

26. *Notes with interest* the initiatives taken by the Republic of Croatia to improve the legislative and economic framework for the return of refugees, in particular steps to eliminate discriminatory provisions of Croatian laws;

27. *Notes with satisfaction* the cooperation between the Police Monitoring Group of the Organization for Security and Cooperation in Europe and the local police forces in Eastern Slavonia, while also noting continued instances of ethnically based problems in Eastern Slavonia;

28. *Welcomes* the continuing efforts by the Republic of Croatia to train and guarantee the professionalism and impartiality of the Croatian police and military forces, and notes, in particular, the commitment on the part of the Ministry of the Interior to maintain an ethnically diverse police force in the Danube region;

29. *Welcomes* the actions of the Government of the Republic of Croatia related to the return of significant numbers of persons to their places of origin since 1995, and the steps being taken by the Government to eliminate discriminatory provisions of Croatian laws, while noting that the pace of minority returns from third countries has been disappointing, and expresses concern that protection of the rights of persons belonging to minorities has not met the level of Croatia's legal obligations;

30. *Notes* that the Government of the Republic of Croatia has continued its efforts to codify democratic norms, including the independence of its judiciary, freedom of association and assembly, while also noting that the Government's application of those laws and principles has lagged behind the Government's stated intentions;

31. *Expresses deep concern* about the fact that Government commitments to improve the freedom of the press have remained unfulfilled, and reaffirms the need for free and independent media and the necessity to provide equal access to all forms of media during the forthcoming electoral campaign for all political parties;

32. *Notes* the passage of a new telecommunications law as a positive step, but urges the Government of the Republic of Croatia to comply with international recommendations, in particular of the mission of the Organization for Security and Cooperation in Europe in the areas of electoral and media reform, regrets that until now those recommendations have been only partially fulfilled and stresses the importance of the full application of the 1991 citizenship law;

33. *Expresses deep concern* about the reported extensive campaign of wiretapping against the independent media and opposition political figures, and calls upon the Government of the Republic of Croatia to ensure that the media and opposition political figures and parties are not harassed or hindered in their actions or intimidated by government actions and are guaranteed the same protections as representatives of the media or political establishment who are favourable to the Government;

34. *Welcomes* the signing on 10 May 1999 by the Government of the Republic of Croatia of the programme of technical assistance of the Office of the United Nations High Commissioner for Human Rights, with a view to building national human rights capacity and human rights education, and looks forward to the implementation of the programme in December 1999;

35. *Notes* the efforts of the Republic of Croatia to codify and incorporate the impartial application of the law, but urges the swift and complete implementation of judicial decisions for all citizens, irrespective of ethnicity, religion or political affiliation, noting with concern that due process, the rule of law, the treatment of ethnic minorities and press freedoms fall short of the standards of the Organization for Security and Cooperation in Europe, notably that lengthy judicial processes plague the Croatian judiciary and that cases of interest to the ruling party are processed more expeditiously than others;

36. *Also notes* the formal steps taken by the Republic of Croatia to guarantee the rights of persons belonging to minorities, and the ratification of the framework convention for the protection of national minorities and the European Charter for Regional Minority Languages, but continues to remind the Government of its primary responsibility to restore the multi-ethnic character of Croatia, in fact as well as in law, including the pledge to

guarantee the representation of national minorities, including Serbs, at various levels of local, regional and national government;

37. *Notes* outstanding letters from the President of the International Tribunal for the Former Yugoslavia to the Security Council, and calls upon the Republic of Croatia to cooperate fully with the Tribunal and to comply, in particular, with its obligation to arrest and transfer to the custody of the Tribunal those indicted persons known to be present in its territory and, when prosecuting war crimes, to ensure that domestic prosecution complies with international standards and the obligations of the Republic of Croatia to the Tribunal;

III. Federal Republic of Yugoslavia (Serbia and Montenegro)

38. *Condemns* the Federal Republic of Yugoslavia (Serbia and Montenegro) for its gross violations of the human rights of the ethnic Albanians of Kosovo and its violent campaign to expel or deport ethnic Albanian Kosovars from their homes and communities in the Federal Republic of Yugoslavia (Serbia and Montenegro);

39. *Calls upon* the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), and all authorities and representatives of ethnic groups in Kosovo to implement Security Council resolution 1244 (1999) and consequently to cooperate fully and support the United Nations Interim Administration Mission in Kosovo in fulfilling its mandate;

40. *Strongly condemns* the presence of indicted war criminals in the hierarchy of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) or who are fugitives in the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro), and calls for them to be removed from office and transferred to the custody of the International Tribunal as one of the first steps towards reinstating the Federal Republic of Yugoslavia (Serbia and Montenegro) in the community of law-abiding States;

41. *Demands* that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) hand over to the International Tribunal for the Former Yugoslavia all government officials of the Federal Republic of Yugoslavia (Serbia and Montenegro) indicted as war criminals and repudiate the leadership of anyone so indicted as a first step to establishing a democratic government and becoming a full and respected member of the international community, and reminds the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) of its obligations to cooperate fully with the Tribunal;

42. *Also demands* that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) immediately bring to justice any persons, in particular those of its personnel, who have authorized or engaged in breaches of international humanitarian law and violations of human rights, including summary executions, indiscriminate attacks on civilians, indiscriminate destruction of property, mass forced displacement of civilians, the taking of civilian hostages, torture and other cruel, inhuman or degrading treatment or punishment and, in this context, reminds the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) of its obligations to cooperate fully with the International Tribunal for the Former Yugoslavia and the United Nations High Commissioner for Human Rights;

43. *Demands* an immediate end to illegal and/or hidden detention by the Federal Republic of Yugoslavia (Serbia and Montenegro), as well as by paramilitary groups in Kosovo, and requests the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to investigate any and all allegations of hidden detentions, including ethnic Serbs, Albanians and others;

44. *Demands* that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) institutionalize democratic norms, by holding free and fair elections at all levels of government, respecting the rule of law and the administration of justice and fully respecting human rights and fundamental freedoms;

45. *Demands* that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) promote and protect free and independent media, and that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) repeal any law that hinders the full and free exercise of the democratic rights of the citizens of the Federal Republic of Yugoslavia (Serbia and Montenegro), cease any harassment and hindrance of journalists wherever within the Federal Republic of Yugoslavia (Serbia and Montenegro) they may be practising their professions, and repeal repressive laws on universities and the media, which suppress any and all internal dissent or expression of independent views, and concomitantly respect the right of free speech;

46. *Emphasizes* that the subversion of the fundamental democratic rights of the citizens of the Federal Republic of Yugoslavia (Serbia and Montenegro) extends to the Federal Republic of Yugoslavia (Serbia and Montenegro) as a whole, calls upon the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to respect the rights of all persons belonging to minority groups, especially in the Sandjak and Vojvodina, and of persons belonging to the Bulgarian minority, and supports the unconditional return of the long-term missions of the Organization for Security and Cooperation in Europe, as called for by the Security Council in its resolutions;

47. *Concerned* by the continued grave infringements upon the freedom of expression in the Federal Republic of Yugoslavia (Serbia and Montenegro), in particular with regard to the exploitation of the crisis in Kosovo as a means to stifle and suppress views opposing the government in power, a violation of the basic rights of free speech;

48. *Denounces* the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) for its legal and physical intimidation of peaceful political opposition activities and of individuals who express views that differ from those of the Government, and demands that the Federal Republic of Yugoslavia (Serbia and Montenegro) respect the fundamental rights of individuals to free assembly and free speech;

49. *Insists* that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) support the activities of the international community and the United Nations Interim Administration Mission in Kosovo to rebuild and facilitate the multi-ethnic society in Kosovo that the policy of ethnic cleansing, intimidation and discrimination largely destroyed, in particular by using the influence of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) among the local Serb representatives in Kosovo and by working in good faith with the local Albanian representatives to that end;

50. *Calls upon* the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to implement fully, with dispatch and in good faith, their obligations under the Peace Agreement, and notably to cooperate fully with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations to alleviate the suffering of refugees and internally displaced persons and to assist in their safe and voluntary return to their homes;

51. *Calls upon* States to consider additional voluntary contributions to meet the pressing human rights and humanitarian needs in the area, and underlines the need for continued coordination among States, international organizations and non-governmental organizations of initiatives and programmes with the aim of avoiding duplication, overlap and working at cross purposes;

52. *Decides* to continue its examination of this question at its fifty-fifth session under the item entitled "Human rights questions".